

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.780 of 2018**

Bhagdas Deshlahre, son of Patar Singh Deshlahre, aged about 42 years, occupation Contractor of Electric Wire Spread, resident of Vijay Chowk, Maroda, Tahsil and District Durg, Chhattisgarh

---- **Applicant**

versus

1. Ahirmati Deshlahre, wife of Bhagdas Deshlahre, aged about 40 years,
2. Kripank Deshlahre, son of Bhagdas Deshlahre, aged about 7 years, represented through mother Ahirmati Deshlahre,

Both are residents of Vijay Chowk, Maroda, at present resident of Village Chhanta, Tahsil Patan, District Durg, Chhattisgarh

--- **Respondents**

For Applicant	:	Shri Arvind Kumar Dubey, Advocate
For Respondents	:	Shri Sudhir Kumar Verma, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

28.3.2019

1. The Respondents herein filed an application under Section 125 of the Code of Criminal Procedure. The Family Court, Durg allowed the application and granted maintenance of Rs.800/- per month in favour of Respondent No.1 and Rs.500/- per month in favour Respondent No.2. Apart from this, Respondent No.1 filed a separate application under the provisions of the Protection of Women from Domestic Violence Act and in that proceeding the Judicial Magistrate First Class, Patan, District Durg allowed the maintenance to the tune of Rs.1,000/- in favour of Respondent No.1. For recovery of the maintenance granted under Section 125 of the Code of Criminal Procedure, an application under Section 125(3) of the Code of Criminal Procedure was submitted by the Respondents. In that proceeding, the Applicant herein paid Rs.18,000/- for the period upto 14.7.2014. Thereafter, the

Respondents filed a fresh application under Section 125(3) of the Code of Criminal Procedure. In that proceeding also, the Applicant paid Rs.16,901/-. Respondent No.1 filed a separate application for recovery of the maintenance granted by the Judicial Magistrate First Class, Patan in the domestic violence case. In that proceeding also, the Applicant deposited the entire amount of Rs.8,000/-. Thereafter, the Applicant filed an application before the Family Court that the amount which was deposited by him as ordered to him in the matter of domestic violence may be adjusted in the amount ordered to be paid in the proceeding under Section 125(3) of the Code of Criminal Procedure. The said application of the Applicant has been rejected vide the impugned order dated 27.4.2018 by the Family Court, Durg in Case No.58 of 2017. Hence, this revision by the Applicant.

2. Learned Counsel appearing for the Applicant submits that there is a settled law that if maintenance has been granted in two different proceedings then only one amount of maintenance can be payable which is on higher side. Therefore, in the light of the settled law, the amount of (Rs.800+Rs.500=) Rs.1,300/-, which has been granted by the Family Court, shall only prevail.
3. Learned Counsel appearing for the Respondents admits the above fact and he also agrees to the same. However, he submits that the amount of Rs.5,000/- which has been granted in the matter of domestic violence as compensation shall also be recoverable in addition to the amount of maintenance granted by the Family Court. Learned Counsel for the Applicant agrees to the same.
4. Therefore, as agreed between the parties, the maintenance

granted by the Family Court shall only prevail and the maintenance granted in the matter of domestic violence shall be adjustable in the amount of maintenance granted by the Family Court. It is made clear that the amount of Rs.5,000/- granted in the matter of domestic violence as compensation shall also be paid by the Applicant to the Respondents in addition to the amount of maintenance granted by the Family Court.

5. Consequently, the revision is disposed of in the aforesaid terms.

Sd/-

(Arvind Singh Chandel)
Judge